

## § 265.254

## 40 CFR Ch. I (7–1–11 Edition)

(3) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm; and

(4) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously to maintain design capacity of the system; or

(b)(1) The pile must be protected from precipitation and run-on by some other means; and

(2) No liquids or wastes containing free liquids may be placed in the pile.

[*Comment:* If collected leachate or run-off is discharged through a point source to waters of the United States, it is subject to the requirements of section 402 of the Clean Water Act, as amended.]

[45 FR 33232, May 19, 1980, as amended at 47 FR 32367, July 26, 1982]

### § 265.254 Design and operating requirements.

The owner or operator of each new waste pile on which construction commences after January 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July 29, 1992, and each such replacement of an existing waste pile unit that is to commence reuse after July 29, 1992 must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, in accordance with § 264.251(c), unless exempted under § 264.251(d), (e), or (f), of this chapter; and must comply with the procedures of § 265.221(b). “Construction commences” is as defined in § 260.10 of this chapter under “existing facility”.

[57 FR 3493, Jan. 29, 1992]

### § 265.255 Action leakage rates.

(a) The owner or operator of waste pile units subject to § 265.254 must submit a proposed action leakage rate to the Regional Administrator when submitting the notice required under § 265.254. Within 60 days of receipt of the notification, the Regional Administrator will: Establish an action leakage rate, either as proposed by the owner

or operator or modified using the criteria in this section; or extend the review period for up to 30 days. If no action is taken by the Regional Administrator before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

(b) The Regional Administrator shall approve an action leakage rate for waste pile units subject to § 265.254. The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under § 265.260, to an average daily flow rate (gallons per acre per day) for each sump. Unless the Regional Administrator approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period.

[57 FR 3493, Jan. 29, 1992, as amended at 71 FR 40275, July 14, 2006]

### § 265.256 Special requirements for ignitable or reactive waste.

(a) Ignitable or reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable requirements of 40 CFR part 268, and:

(1) Addition of the waste to an existing pile (i) results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under § 261.21 or § 261.23 of this chapter, and (ii) complies with § 265.17(b); or